

Remarks

This Application has been carefully reviewed in light of the Office Action mailed July 22, 2003. Since Applicant believes all pending claims are allowable over the prior without amendment, no amendments have been made. However, Applicant respectfully provides the following additional remarks. Applicant respectfully requests reconsideration and allowance of all pending claims.

The Examiner rejects Claims 2-8, 10-18, and 20-28 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,911,776 to *Guck* in view of U.S. Patent 6,421,787 to Slaughter et al. ("*Slaughter*"). Applicant respectfully disagrees.

Applicant respectfully submits that the Examiner must give proper weight and meaning to the limitations recited in Applicant's claims, as those limitations are specifically recited in Applicant's claims. In particular, the Examiner must give proper weight and meaning to Applicant's recited first and second versions of *the single business application* and the recited operations that the recited first and second versions of *the single business application* perform. The proposed *Guck-Slaughter* combination fails to disclose, teach, or suggest at least the following limitations recited in Applicant's independent Claims 6, 15, and 25:

(1) first and second versions of *the single business application* being identified using first and second version identifiers, respectively, and being executable by first and second clients, respectively, to perform a business process; and

(2) the first version of *the single business application* is operable to:

(a) determine the first and second version identifiers;

(b) exercise control over execution of the business process if the first version of *the single business application* is higher than the second version of *the single business application*; and

(c) allow the second version of *the single business application* to exercise control over execution of the business process

if the second version of *the single business application* is higher than the first version of *the single business application*.

The portions of *Guck* relied on by the Examiner merely disclose the use of shadow files and corresponding converters to allow an original source file to be transformed into other formats according to particular needs of requesting clients. (See Abstract; Column 1, Lines 24-30; Column 4, Lines 41-54; Column 4, Line 66 – Column 5, Line 25)

The Examiner continues to apply "the process of enabling an author to create and store an original document" disclosed in *Guck* against Applicant's recited first version of the single business application. The Examiner also continues to apply "the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances" disclosed in *Guck* against Applicant's recited second version of the single business application. However, even assuming for the sake of argument that these processes could be equated with business applications, Applicant's independent Claims 6, 15, and 25 make clear that the recited first and second versions executable by the first and second clients, respectively, are two versions of *the same business application* (i.e. "the business application") rather than two completely different business applications as the Examiner's argument requires.

Following the Examiner's reasoning, for *Guck* to be applied against Applicant's independent Claims 6, 15, and 25, "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) would need to be operable to:

- (1) determine a first version identifier for itself;
- (2) determine a second version identifier for "the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances" (which the Examiner applies against Applicant's recited second version of the single business application);
- (3) exercise control over enabling "an author to create and store an original document, as a source file with a first format" (which the Examiner applies against Applicant's recited business process) if its version is higher than the version of "the process of updating and retrieve information as files

or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances" (which the Examiner applies against Applicant's recited second version of the single business application); and

(4) allow "the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances" (which the Examiner applies against Applicant's recited second version of the single business application) to exercise control over execution of enabling "an author to create and store an original document, as a source file with a first format" (which the Examiner applies against Applicant's recited business process) if the version of "the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances" (which the Examiner applies against Applicant's recited second version of the single business application) is higher than its version.

Applicant again respectfully submits that, not only does the above make little if any sense, but the above is very plainly not disclosed, taught, or suggested in *Guck*, whether *Guck* is considered alone or in combination with any other cited reference or with knowledge generally available to one skilled in the art at the time of the invention.

The Examiner again acknowledges that *Guck* fails to disclose that the first version of the single business application is operable: (1) if the first version is higher than the second version, to exercise control over execution of the business process; and (2) if the second version is higher than the first version, to allow the second version of the single business application to exercise control over execution of the business process. (See Office Action, Page 3) Applicant respectfully notes that these elements acknowledged to be missing from the primary reference *Guck* constitute two of the three total elements in each of Applicant's independent Claims 6, 15, and 25.

To account for these missing elements, the Examiner again appears to equate first and second user protocols with Applicant's recited first and second versions of the single business application, respectively; again cites a portion of the secondary reference *Slaughter* disclosing that a protocol faster than TCP/IP may be used for data communications (See Column 10, Lines 8-15); and again states that "it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the format conversion of *Guck* by including a faster protocol as taught by *Slaughter* because such modification

would provide the format conversion of Guck with the enhanced necessary to have a faster network communication or business process" and that "a user with a faster protocol, should have control over the business process."¹ Applicant again respectfully submits that this is entirely insufficient to support an obviousness rejection under 35 U.S.C. § 103(a) under the M.P.E.P. and governing Federal Circuit case law.

Applicant reiterates previous remarks made with respect to the improper combination of *Guck* with *Slaughter*. The Examiner provides the following purported motivation to combine these references: "it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the format conversion of Guck by including a faster protocol as taught by Slaughter because such modification would provide the format conversion of Guck with the enhanced necessary to have a faster network communication or business process." (Office Action, Page 3) First, independent Claims 6, 15, and 25 recite that a first version of a business application, not "a user" as the Examiner states, exerts or relinquishes control over execution of the business process. Second, it cannot be assumed that "a user with a faster protocol, should have control over the business process" and the Examiner provides no explanation as to why this should be the case. For example, it may be more desirable for the version of the business application having more, better, or newer functionality to exercise control. Third, Applicant remains unclear as to how use of a faster protocol, such as LLCL rather than TCP/IP, relates to the limitations recited in independent Claims 6, 15, and 25. In any event, Applicant respectfully submits that the Examiner's purported motivation for combining *Guck* with *Slaughter* falls well short of the requirements set forth in the M.P.E.P. and governing Federal Circuit case law.

Moreover, even assuming for the sake of argument that *Slaughter* was analogous art and that there was the required suggestion or motivation to combine *Guck* with *Slaughter*, the proposed *Guck-Slaughter* combination still would not disclose the limitations specifically recited in Applicant's independent Claims 6, 15, and 25 for all the reasons explained above. This is true whether the proposed *Guck-Slaughter* combination is considered alone, in

¹ If "common knowledge" or "well known" art is being relied on or if Official Notice is being taken, Applicant respectfully requests that a reference be provided in support of this position pursuant to M.P.E.P. § 2144.03. If personal knowledge is being relied on, Applicant respectfully requests that an affidavit supporting such facts be provided pursuant to M.P.E.P. § 2144.03.

combination with one or more other cited references, or in combination with information generally known to those skilled in the art at the time of the invention.

For at least these reasons, Applicant again respectfully requests reconsideration and allowance of independent Claims 6, 15, and 25, together with all claims that depend on these claims.

Applicant also respectfully notes that the above remarks supporting the allowability of Applicant's independent claims apply similarly to Applicant's dependent claims, which recite numerous additional patentable distinctions over the proposed *Guck-Slaughter* combination.

For example, applying the Examiner's reasoning with respect to dependent Claim 2 would require "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) to be operable to:

(1) include a version identification module operable to generate a version identification request for communication to the second client, the version identification request being associated with enabling "an author to create and store an original document, as a source file with a first format" (which the Examiner applies against Applicant's recited business process) and generated according to a version identification protocol supported by both "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) and "the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances" (which the Examiner applies against Applicant's recited second version of the single business application); and

(2) allow a similar version identification module of "the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances" (which the Examiner applies against Applicant's recited second version of the single business application) to initiate communication of the second version identifier to "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) in response to the version identification request.

As another example, applying the Examiner's reasoning with respect to dependent Claim 3 would require "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) to be operable to:

if "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) is an initiator of enabling "an author to create and store an original document, as a source file with a first format" (which the Examiner applies against Applicant's recited business process), control enabling "an author to create and store an original document, as a source file with a first format" (which the Examiner applies against Applicant's recited business process) if the second version is not higher than the first version.

As another example, applying the Examiner's reasoning with respect to dependent Claim 4 would require "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) to:

include a business process module operable to (1) generate a first business message associated with enabling "an author to create and store an original document, as a source file with a first format" (which the Examiner applies against Applicant's recited business process) for communication to the second client, the first business message being generated according to the second version and (2) initiate retrieval from the second client of a second business message generated according to the second version.

As another example, applying the Examiner's reasoning with respect to dependent Claim 5 would require the first client to be operable to:

receive a status message from the second client indicating the presence of a business message associated with enabling "an author to create and store an original document, as a source file with a first format" (which the Examiner applies against Applicant's recited business process) at the second client, the status message being generated according to a status message protocol supported by both "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) and "the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving

appliances" (which the Examiner applies against Applicant's recited second version of the single business application).

As another example, applying the Examiner's reasoning with respect to dependent Claim 7 would require "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) to:

include a business process module operable to generate a business message associated with enabling "an author to create and store an original document, as a source file with a first format" (which the Examiner applies against Applicant's recited business process) for retrieval by the second client, the business message being generated according to the first version.

As another example, applying the Examiner's reasoning with respect to dependent Claim 8 would require "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) to:

include a status message module operable to generate a status message for communication to the second client to indicate the presence of a business message associated with enabling "an author to create and store an original document, as a source file with a first format" (which the Examiner applies against Applicant's recited business process) at the first client, the status message being generated according to a status message protocol supported by both "the process of enabling an author to create and store an original document" (which the Examiner applies against Applicant's recited first version of the single business application) and "the process of updating and retrieve information as files or file-converter and then published in any specific format to multiple numbers of and type of receiving appliances" (which the Examiner applies against Applicant's recited second version of the single business application).

Similar requirements would apply to the dependent claims depending on independent Claims 15 and 25 following the Examiner's reasoning. Applicant respectfully submits that the above requirements, particularly when these requirements are incorporated with those discussed above with respect to the independent claims as is necessary due to the dependencies of these claims, make little if any sense and are very plainly not disclosed, taught, or suggested in *Guck*, whether *Guck* is considered alone or in combination with any

other cited reference or with knowledge generally available to one skilled in the art at the time of the invention.

For at least these reasons, Applicant again respectfully requests reconsideration and allowance of all dependent claims.

Conclusion

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

If the Examiner believes a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Christopher W. Kennerly, Attorney for Applicant, at the Examiner's convenience at (214) 953-6812.

Although Applicant believes no fees are due, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



Christopher W. Kennerly
Reg. No. 40,675

Correspondence Address:

2001 Ross Avenue, 6th Floor
Dallas, Texas 75201-2980
(214) 953-6812

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